

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

OXFORD BIOMEDICAL RESEARCH, INC.,  
a Michigan corporation,

Plaintiff,

Case No. 05-60274

v.

Hon. John Corbett O'Meara

INVITROGEN CORPORATION,

Defendant.

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**ORDER DENYING DEFENDANT'S MOTION  
TO COMPEL COMPLIANCE WITH LOCAL RULE 16.2**

Before the court is Defendant's motion to compel compliance with Local Rule 16.2, filed April 15, 2009. Plaintiff filed a response on April 17, 2009; Defendant submitted a reply on April 20, 2009.

Defendant contends that Plaintiff is attempting to use the joint final pretrial order as a vehicle for adding new claims. Defendant asserts that, although Plaintiff stated a breach of contract claim in its complaint, Plaintiff did not identify some of the specific breaches it seeks to include in the final pretrial order. The court believes that Plaintiff's complaint is sufficient to give Defendant notice of its claims. Moreover, the issues that Defendant complains are "new" were litigated by the parties through cross-motions for summary judgment about a year ago. Defendant does not contend that it is surprised by these claims and cannot reasonably assert that it is prejudiced by litigating these issues at trial.

Accordingly, IT IS HEREBY ORDERED that Defendant's April 15, 2009 motion to

compel compliance with L.R. 16.2 is DENIED.

s/John Corbett O'Meara  
United States District Judge

Date: April 23, 2009

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, April 23, 2009, by electronic and/or ordinary mail.

s/William Barkholz  
Case Manager